

No. 10773-3 Lab-67/32800.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Usha Spinning and Weaving Mills Ltd., 12/1, Miles Stone, Mathura Road, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 93 of 1967.

Between

THE WORKMEN AND THE MANAGEMENT OF M/S USHA SPINNING AND WEAVING MILLS LTD., 12/1, MILES STONE, MATHURA ROAD, FARIDABAD.

Present :

Nemo for the workman.

Shri Madan Pal for the management.

AWARD

Shri Tribhawan Singh was in the service of M/s Usha Spinning and Weaving Mills Ltd., Faridabad. His services were terminated and this gave rise to an industrial dispute. The Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 read with the proviso to that sub-section of the Industrial Disputes Act, 1947, has referred the following dispute to this Court for adjudication,—*vide* gazette notification No. 432-SF-III-Lab-67, dated 19th September, 1967:—

Whether the termination of services of Shri Tribhawan Singh was justified and in order ?
If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties. On the date fixed for the hearing no body appeared on behalf of the workman. Shri Madan Pal appeared on behalf of the management and made a statement that the workman Shri Tribhawan Singh had accepted compensation in lieu of termination of his services and all other claims and thus the dispute between the parties have been amicably settled and the reference may be dismissed. In view of the statement made on behalf of the management and the fact that the workman has not even cared to attend the Court the claim of the workman is hereby dismissed. No order as to costs.

The 31st October, 1967.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 1512, dated the 31st October, 1967.

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 10770-3 Lab-67/32804.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak, in respect of the dispute between the workmen and management of M/s. London Industries, Link Road, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 56 of 1967

Between

THE WORKMEN AND THE MANAGEMENT OF M/S LONDON INDUSTRIES, LINK ROAD, FARIDABAD.

Present.—Dr. Krishan Gopal for the workmen.

Shri D. C. Bhardwaj for the management.

AWARD

Sarvshri Chander Singh, Hans Raj and Surinder Kumar were in the service of M/s London Industries, Link Road, Faridabad. Their services were terminated and this gave rise to an industrial dispute. The Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 read with the proviso to that sub-section of the Industrial Disputes Act, 1947 has referred the following dispute to this Court for adjudication,—*vide* gazette notification No. 252-SF-III-Lab-67/21056, dated 20th July. 1967 :—

Whether the termination of the services of Sarvshri Chander Singh, Hans Raj and Surinder Kumar were justified and in order? If not, to what relief are they entitled?

On receipt of the reference usual notices were issued to the parties. Neither Shri Surinder Kumar workman nor his representative appeared in Court inspite of service. Shri Davinder Singh on behalf of the management made a statement that Shri Surinder Kumar had received all his dues in full and final settlement of his claims. A receipt signed by Shri Surinder Kumar in this respect has been filed in this Court. As regards the other two workmen, namely Sarvshri Hans Raj and Chander Singh their claim was at first resisted but on a subsequent hearing their dispute was also amicably settled and the representative of the management made a statement that the management had agreed to pay them all their outstanding wages, wages in lieu of leave not availed of and ten days' wages as *ex-gratia* payment in consideration of which the workmen concerned have withdrawn their claim for reinstatement and did not wish re-employment in the respondent concern. The representative of the workmen Dr. Krishan Gopal accepted this statement as correct and prayed that an award may be made in terms of the settlement. Accordingly I make an award that the two workmen Sarvshri Hans Raj and Chander Singh are entitled to all their outstanding wages, and wages in lieu of leave not availed of till the date of the termination of their services and that they are also entitled to the payment of ten days' wages in consideration of their relinquishing claim for reinstatement. As regards Shri Surinder Kumar his claim is dismissed. No order as to costs.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak,

Dated the 31st October, 1967,

No. 1532, dated the 2nd November, 1967.

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.

No. 10774-3Lab-67/32806.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak, in respect of the dispute between the workmen and management of M/s Hemla Embroidery Mills (P.) Ltd., Mathura Road, Faridabad.

BEOFRE SHRI P. N. THUKRAL, PRESIDING
OFFICER, LABOUR COURT, ROHTAK.

Reference No. 77 of 1967

Between

THE WORKMEN AND THE MANAGEMENT
OF M/S HEMLA EMBROIDERY MILLS (P.)
LTD., MATHURA ROAD, FARIDABAD.

Present.—Nemo for the workman.

Chri N. S. Sistani for the management.

AWARD

Shri Jhandu Mal was in the service of M/s Hemla Embroidery Mills (P.) Ltd., Faridabad. His services were dispensed with and this gave rise to an industrial dispute. The Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947 has referred the following dispute to this Court for adjudication,—*vide* gazette notification No. 362-SFIII-Lab-67/24818, dated 22nd August, 1967 :—

“Whether the termination of services of Shri Jhandu Mal was justified and in order? If not, to what relief is he entitled?”

On receipt of the reference usual notices were issued to the parties. The parties appeared in this Court on 29th September, 1967. A statement of claim was filed on behalf of the workman and the case was adjourned to enable the management to file their written statement. On the date fixed no body appeared on behalf of the workman. Shri N. S. Sistani appeared on behalf of the management and made a statement that the workman Shri Jhandu Mal had received all his dues from the management in full and final settlement of all his claims and did not claim reinstatement. An application which the workman had given to the management acknowledging the receipt of all his dues in full and final settlement of his claim has been filed. Shri Sistani has stated that this application bears the thumb impression of the workman concerned. There is no reason to doubt the statement of Shri Sistani and the claim of the workman for reinstatement is dismissed as withdrawn. No order as to costs.

Dated the 30th October, 1967.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.

No. 1515, dated 31st October, 1967.

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 10771-3Lab-67/32811.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Wazir Singh & Sons, Mathura Road, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING
OFFICER, LABOUR COURT, ROHTAK.

Reference No. 69 of 1967.

Between

THE WORKMEN AND THE MANAGEMENT
OF M/S WAZIR SINGH & SONS, MATHURA
ROAD, FARIDABAD.

Present.—Nemo for the workman.

Shri S. L. Gupta for the management.

AWARD

Shri Mohan Lal was employed by M/s Wazir Singh & Sons, Faridabad on probation for one year. His services were terminated on 20th March, 1967. This gave rise to an industrial dispute and the Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Court for adjudication,—*vide* gazette notification No. 380-SFIII-Lab-67, dated 31st July, 1967 :—

Whether the termination of services of Shri Mohan Lal was justified and in order? If not, to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties. The workman filed a statement of claim in which it was stated that the management terminated his services without any prior notice and without giving him any charge sheet or making an inquiry against him. The case of the management on the other hand is that the workman started absenting himself from his duties on 2nd March, 1967, without leave. It is stated that the workman approached the management on 20th March, 1967 and informed the management that he was not interested in continuing in his job and at his request his account was settled.

The pleadings of the parties gave rise to the following issues :—

- (1) Whether the claimant absented himself from his duty from 2nd March, 1967 onwards and thereafter he collected all the money due to him?
- (2) Whether the claimant has been dismissed from service from 8th March, 1967?
- (3) If the above issues are found in favour of the claimant to what relief is he entitled?

On the date fixed for evidence no body appeared on behalf of the workmen. Shri Surjit Singh partner of the respondent concern with Shri S. L. Gupta was present. So *ex parte* evidence was recorded against the workman. Shri Surjit Singh partner of the respondent concern has affirmed on oath that the workman Shri Mohan Lal was employed on 1st May, 1966, on probation for one year,—*vide* employment order Ex- M/1

and that the workman accepted the terms and conditions of the employment and signed the employment order in token of his acceptance of the terms of his employment. Shri Surjit Singh has further stated that the workman started absenting himself from 2nd March, 1967, onwards without obtaining leave and a show cause notice, dated 9th March, 1967 copy Ex. M/2 was served on him by registered post. Shri Surjit Singh has stated that no reply was received to the show cause notice but the workman approached the management on 20th March, 1967 and informed them that he was not interested in continuing in their service and demanded full and final settlement. Shri Surjit Singh says that all his dues were paid to him,—*vide* receipt Ex. M/3. It is thus proved by the evidence of the management that the services of the workman Shri Mohan Lal were not terminated by the management but the workman himself abandoned his service and the termination of his services cannot therefore be said to be unjustified. I make no order as to costs. Dated the 31st October, 1967.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 1513 dated 31st October, 1967.

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

(P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 10797-3Lab-67/32822.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak, in respect of the dispute between the workmen and management of M/s Nav Bharat Industries, Rohtak.

BEFORE SHRI P. N. THUKRAL, PRESIDING
OFFICER, LABOUR COURT, ROHTAK.

Reference No. 8 of 1967.

Between

THE WORKMEN AND THE MANAGEMENT
OF M/S NAV BHARAT INDUSTRIES,
ROHTAK

Present.—Shri S. N. Vats, for the workman.

Shri D. R. Gupta, for the management.

AWARD

It is alleged that the workman Shri Om Parkash misbehaved, disobeyed and abused Shri Daya Nand, Shift Incharge, on 20th May, 1966 in the second shift. He was suspended on 21st May, 1966 and an inquiry was held against. As a result of the inquiry the charge of misbehaviour was established and the workman was dismissed from service,—*vide* orders of the management, dated 16th November, 1966, after obtaining the approval of this Court under Section 33(2) of the Industrial disputes Act, 1947. The workman has been paid his wages only from 20th May, 1966 to 31st May, 1966. He has served a notice of demand on the management claiming wages for the full period of his suspension. This demand was not accepted and this gave rise to an industrial dispute. The Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947

has referred the following dispute to this Court for adjudication,—*vide* gazette notification No. 33-SF-III-Lab-67/2087, dated 20th January, 1967 :—

Whether Shri Om Parkash is entitled to full wages for the period of suspension? If not, to what relief he is entitled?

On receipt of the reference a notice was issued to the workman to file his statement of claim and to the management to file their written statement. The workman in his statement of claim has asserted that he has been in the service of the respondent from the last 4 or 5 years. He has further asserted that there are no standing orders or any agreement between the parties authorising the management to stop the payment of the salary of the workman during the period of his suspension. It was, therefore, prayed that the workman was entitled to his full pay during the period of his so called suspension.

The management in their written statement maintain that since the charge levelled against the workman has been adequately proved as a result of a proper and fair inquiry and the workman was dismissed after obtaining the approval of this Court, therefore, the question of payment of wages during the period of suspension does not arise. It is further alleged that the workman had filed an application under section 15(2) of the Payment of Wages Act, 1936 in the Court of the Senior Sub-Judge, Rohtak, for the recovery of the salary during the period of his suspension. Therefore, this reference may be stayed under Section 10 of the Civil Procedure Code.

My learned predecessor Shri Hans Raj Gupta framed the following issues in this case :—

- (1) Whether the claimant Shri Om Parkash is not entitled to his wages for the period 1st June, 1966 to 15th November, 1966?
- (2) If issue No. 1 is decided against the management to what amount on account of wages for the above period, Shri Om Parkash is entitled?
- (3) What is the effect of the application for payment of wages for the period of 1st June, 1966 to 30th September, 1966, made by the claimant to the authority under the Payment of Wages Act?
- (4) Relief.

Issue No. 3.

It is not necessary to decide this issue because the representative of the management has made a statement that the workman has withdrawn his application for wages from 1st June, 1966 to 30th September, 1966 which was pending before the authority under the Payment of Wages Act. Since no application for recovery of wages is now pending before any other authority, therefore, the question of staying further proceedings in this case does not arise.

Issue No. 1 and 2.

The representative of the management Shri R. K. Chhabra made a statement before the issues that the respondent concern have no certified standing orders applicable to them. He further stated that as the strength of the employees in their concern was less than 100, therefore, the Model Standing Orders were also not applicable to them. He also admitted that the management had no written contract of service with the workman Shri Om Parkash which gives them the power to suspend him without payment of wages. He also admitted that no wages have been paid to the

workman from 1st June, 1966 onwards. It is, therefore, clear that in case the claimant continued attending the respondent factory regularly during the period of his so called suspension then he would be entitled to his wages because it has been held in 1966-I-LLJ-701 that the contract of service subsists between the employer and employee even during the period of suspension and in the absence of a term in the contract permitting the employer to suspend the employee pending inquiry against him, he must be deemed to be in service and entitled to remuneration, the fact that he was not allowed to work, not making any difference in this behalf. In the absence of a rule permitting the employer to suspend the employee for some reason or other, it is not within the powers of the employer to suspend the employee and refuse to pay him wages therefor. The result therefore is that the absence of such power either means that the master would have no power to suspend a workman and even if he does in the sense that he forbids the employee to work, he will have to pay wages during the so called period of suspension. In my opinion therefore the workman would be entitled to his wages if he was presenting himself for work and no work was given to him.

The case of the management is that the claimant Shri Om Parkash was not attending the factory during the period of his suspension and therefore even if there was no term in the contract of service permitting the management to suspend him, he would not be entitled to wages during the period of his suspension.

Shri K. C. Nagpal, Personnel Officer of the respondent concern has produced the attendance register for the year 1966-67 Ex. RP/3. He has stated that this register is maintained regularly and on the dates the workman Shri Om Parkash presented himself at the factory he was marked under suspension in the attendance register and on the date he did not attend the factory at all he was marked absent. He has further stated that during the period of suspension it is the right of the suspended workman to apply for leave and the management can grant him leave if the circumstances so warrant. He says that Shri Om Parkash claimant gave an application Ex. RP/4 on 27th June, 1966, for five days leave and the management allowed him rest for three days and this rest is shown in the attendance register from 27th June, 1966 to 29th June, 1966. In cross examination the witness however, admits that he was employed as a Personnel Officer in the respondent concern only on 4th December, 1966 and he worked there till 2nd February, 1967. He then left the service of the respondents and rejoined on 27th March, 1967. It is thus clear that entries in the attendance register relating to the claimant Shri Om Parkash were made before the witness even joined the service of the respondents. The witness admits that the register bears the initials of his clerk Shri Jai Bhagwan Mittal. He says that it appears that Shri Jai Bhagwan Mittal used to maintain the attendance register at the relevant time and he was still an employee in their factory but no reason has been given for his non-production as a witness in Court to prove the correctness of the entries made by him.

The workman in his evidence during the course of cross examination has however, affirmed that he used to get his attendance recorded daily but the management did not record his attendance and always turned him out. The workman further says that he used to get his attendance recorded because he was never told by the management for what period he has been

suspended. The workman says that for the first 5 or 7 days the management recorded his presence but thereafter they discontinued. There is no reason to disbelieve the evidence of the workman that he was in fact attending the factory but neither his presence was recorded nor any work was given to him. In case the workman was not interested in presenting himself for work in the respondent factory and he was sitting at home or working elsewhere then he would not give an application Ex. RP/4 for five days leave. Further if the workman had in fact not been presented himself for work without any leave then the management must have served him with a registered notice that he was not attending the factory and was being marked absent. In the absence of any satisfactory evidence in rebuttal I believe the sworn testimony of the workman that he was presenting himself for work but no work was being provided to him. It must, therefore, be held that the claimant is entitled to his full wages for the period of his suspension. I make no order as to costs. Dated the 31st October, 1967.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 1539, dated the 3rd November, 1967.

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

LABOUR AND EMPLOYMENT DEPARTMENT The 13th November, 1967

No. 10958-2Lab.-67/33172.—The Governor of Haryana is pleased to promote on ad hoc basis Shri Ram Dass, Head Assistant, as Assistant Employment Officer in the scale of Rs. 200—15—350, with effect from 1st August, 1967 (forenoon) to 28th October, 1967 (afternoon), against the leave vacancy of Shri Om Parkash Sharma, staff Training Officer and Professional and Executive Employment Officer, Directorate of Employment, Haryana, Chandigarh.

R. I. N. AHOOJA, Secy. EDUCATION DEPARTMENT The 9th November, 1967

No. 6846-IE-EDII-67/28198.—The Governor of Haryana is pleased to make the following amendments in the erstwhile Punjab Government Notification No. 7670-EDIV(4E)-63/1655, dated 1st February, 1964, with immediate effect:—

AMENDMENT

In Sub-Clause (ii)(b) of Note (2) of the Punjab Education Code, the words 'Circle Education Officer' will be substituted by the words 'District Education Officers' and in Sub-Clause (ii)(c) of this Note, the words 'Joint Director of Public Instruction (Schools) Punjab' will be substituted by words 'Deputy Director Schools, Haryana'.

No. 6846-IE-EDII-67/28200.—The Governor of Haryana is pleased to make the following amendments in the erstwhile Punjab Government Notification No. 7282-EDIV(32/33)-65-23824, dated 11th November, 1965, with immediate effect:—

AMENDMENT

In Clause (2) of Article 230 of Punjab Education Code, the words 'Circle Education Officer' wherever occurring will be substituted by the words 'District Education Officers' and the words 'Joint Director of Public Instructions. (Schools) Punjab' will be substituted by the words 'Deputy Director (Schools), Haryana'.